



**4310-84-P**

**DEPARTMENT OF THE INTERIOR**

**Bureau of Land Management**

**43 CFR Part 3000**

**[18X.LLWO310000.L13100000.PP0000]**

**RIN 1004-AE57**

**Minerals Management: Adjustment of Cost Recovery Fees**

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Final rule.

**SUMMARY:** This final rule updates the fees set forth in the Bureau of Land Management (BLM) mineral resources regulations for the processing of certain minerals program-related actions. It also adjusts certain filing fees for minerals-related documents. These updated fees include those for actions such as lease renewals and mineral patent adjudications.

**DATES:** This final rule is effective October 1, 2018.

**ADDRESSES:** You may send inquiries or suggestions to Director (630), Bureau of Land Management, 2134LM, 1849 C Street N.W., Washington, D.C. 20240; Attention: RIN 1004-AE57.

**FOR FURTHER INFORMATION CONTACT:** Steve Wells, Chief, Division of Fluid Minerals, 202-912-7143; Mitch Leverette, Chief, Division of Solid Minerals, 202-912-7114; or Mark Purdy, Regulatory Affairs, 202-912-7635. Persons who use a telecommunications device for the deaf (TDD) may leave a message for these individuals with the Federal Relay Service (FRS) at 1-800-877-8339, 24 hours a day, 7 days a week.

## **SUPPLEMENTARY INFORMATION:**

### **I. Background**

The BLM has specific authority to charge fees for processing applications and other documents relating to public lands under section 304 of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. 1734. In 2005, the BLM published a final cost recovery rule (70 FR 58854) establishing or revising fees and service charges for processing documents related to its minerals programs (2005 Cost Recovery Rule). In addition, the 2005 Cost Recovery Rule also established the method the BLM would use to adjust those fees and service charges on an annual basis.

At 43 CFR 3000.12(a), the regulations provide that the BLM will annually adjust fees established in subchapter C (43 CFR parts 3000 through 3900) according to changes in the Implicit Price Deflator for Gross Domestic Product (IPD-GDP), which is published quarterly by the U.S. Department of Commerce. See also 43 CFR 3000.10. This final rule updates those fees and service charges consistent with that direction. The fee adjustments in this rule are based on the mathematical formula set forth in the 2005 Cost Recovery Rule. The public had an opportunity to comment on that adjustment procedure as part of the 2005 rulemaking. Accordingly, the Department of the Interior for good cause finds under 5 U.S.C. 553(b)(B) and (d)(3) that notice and public comment procedures are unnecessary and that the fee adjustments in this rule may be effective less than 30 days after publication. See 43 CFR 3000.10(c).

### **II. Discussion of Final Rule**

As set forth in the 2005 Cost Recovery Rule, the fee updates are based on the change in the IPD-GDP. The BLM's minerals program publishes the updated cost recovery fees, which become effective on October 1, the start of the fiscal year (FY).

Since the BLM did not publish a fee update for FY 2018, this rule updates the cost recovery fees from FY 2017 for FY 2019. The update is based on the change in the IPD-GDP from the 4<sup>th</sup> Quarter of 2015 to the 4<sup>th</sup> Quarter of 2017 and reflects the rate of inflation over a two-year time period (or eight calendar quarters).

Under this rule, 17 fees will remain the same and 31 fees will increase. Of the 31 fees that are being increased by this rule, 18 of the increases are equal to \$5 each. The largest increase, \$105, will be applied to the fee for adjudicating a mineral patent application containing more than 10 claims, which will increase from \$3,110 to \$3,215. The fee for adjudicating a patent application containing 10 or fewer claims will increase by \$50, from \$1,555 to \$1,605.

The calculations that resulted in the new fees are included in the table below:

<b>FIXED COST RECOVERY FEES</b>	<b>Existing Fee<sup>1</sup> (FY 2017)</b>	<b>Existing Value<sup>2</sup></b>	<b>IPD-GDP Increase<sup>3</sup></b>	<b>New Value<sup>4</sup></b>	<b>New Fee<sup>5</sup> (FY 2019)</b>
<b>Oil &amp; Gas (parts 3100,3110,3120, 3130,3150)</b>					
Noncompetitive lease application	\$ 415	\$ 413.233	\$ 14.050	\$ 427.283	\$ 425
Competitive lease application	160	160.367	5.452	165.819	165
Assignment and transfer of record title or operating rights	95	92.511	3.145	95.656	95
Overriding royalty transfer, payment out of production	10	12.333	0.419	12.752	15
Name change, corporate merger or transfer to heir/devisee	215	215.858	7.339	223.197	225
Lease consolidation	455	456.392	15.517	471.909	470
Lease renewal or exchange	415	413.233	14.050	427.283	425
Lease reinstatement, Class I	80	80.167	2.726	82.893	85
Leasing under right-of-way	415	413.233	14.050	427.283	425

<sup>1</sup> The Existing Fee was established by the 2016 (FY 2017) cost recovery fee update rule. The 2016 cost recovery fee update rule was published on September 23, 2016 (81 FR 65558) and effective on October 1, 2016. The existing fees were not updated for FY18.

<sup>2</sup> The Existing Value was used to derive the Existing Fee column for the 2016 (FY 2017) cost recovery fee update rule. The numbers in the Existing Value column appear in the New Value column in the 2016 cost recovery fee update rule. The values in this column are rounded to 3 decimal places for display purposes only.

<sup>3</sup> From 4<sup>th</sup> Quarter 2015 (110.513) to 4<sup>th</sup> Quarter 2017 (114.275), the IPD-GDP increased by 3.4 percent. The values in this column equal 3.4 percent multiplied by the corresponding Existing Value. The values in this column are rounded to 3 decimal places for display purposes only.

<sup>4</sup> The New Value is used to calculate the new cost recovery fees for FY19. The New Value equals the sum of the corresponding Existing Value and the IPD-GDP Increase. The New Values may not sum due to rounding. The values in this column are rounded to 3 decimal places for display purposes only.

<sup>5</sup> The New Fee for FY 2019 is the corresponding New Value rounded to the nearest \$5 for values equal to or greater than \$1 or rounded to the nearest penny for values under \$1.

<sup>6</sup> Section 365 of the Energy Policy Act of 2005 (Pub. L. No. 109-58) directed in subsection (i) that “the Secretary shall not implement a rulemaking that would enable an increase in fees to recover additional costs related to processing drilling-related permit applications and use authorizations.” In the 2005 cost recovery rule, the BLM interpreted this prohibition to apply to geophysical exploration permits. 70 FR 58854 – 58855. While the \$25 fees for geophysical exploration permit applications for Alaska and renewals of exploration permits for Alaska pre-dated the 2005 cost recovery rule and were not affected by the Energy Policy Act prohibition, the BLM interprets the Energy Policy Act provision as prohibiting it from increasing this \$25 fee.

<sup>7</sup> The BLM interprets the Energy Policy Act prohibition discussed in footnote 6, above, as prohibiting it from increasing this \$25 fee, as well.

<b>FIXED COST RECOVERY FEES</b>	<b>Existing Fee<sup>1</sup> (FY 2017)</b>	<b>Existing Value<sup>2</sup></b>	<b>IPD-GDP Increase<sup>3</sup></b>	<b>New Value<sup>4</sup></b>	<b>New Fee<sup>5</sup> (FY 2019)</b>
Geophysical exploration permit application - Alaska <sup>6</sup>	25	-----	-----	-----	25
Renewal of exploration permit - Alaska <sup>7</sup>	25	-----	-----	-----	25
<b>Geothermal (part 3200)</b>					
Noncompetitive lease application	415	413.233	14.050	427.283	425
Competitive lease application	160	160.367	5.452	165.819	165
Assignment and transfer of record title or operating right	95	92.511	3.145	95.656	95
Name change, corporate merger or transfer to heir/devisee	215	215.858	7.339	223.197	225
Lease consolidation	455	456.392	15.517	471.909	470
Lease reinstatement	80	80.167	2.726	82.893	85
Nomination of lands	115	115.457	3.926	119.383	120
Plus per acre nomination fee	0.12	0.116	0.004	0.12	0.12
Site license application	60	61.674	2.097	63.771	65
Assignment or transfer of site license	60	61.674	2.097	63.771	65
<b>Coal (parts 3400, 3470)</b>					
License to mine application	10	12.333	0.419	12.752	15
Exploration license application	340	339.216	11.533	350.749	350
Lease or lease interest transfer	70	67.856	2.307	70.163	70
<b>Leasing of Solid Minerals Other Than Coal and Oil Shale (parts 3500, 3580)</b>					
Applications other than those listed below	35	37.009	1.258	38.267	40
Prospecting permit amendment	70	67.856	2.307	70.163	70
Extension of prospecting permit	110	111.015	3.775	114.79	115
Lease modification or fringe acreage lease	30	30.848	1.049	31.896	30
Lease renewal	530	530.420	18.034	548.454	550
Assignment, sublease, or transfer of operating rights	30	30.848	1.049	31.896	30
Transfer of overriding royalty	30	30.848	1.049	31.897	30
Use permit	30	30.848	1.049	31.897	30
Shasta and Trinity hardrock mineral lease	30	30.848	1.049	31.897	30
Renewal of existing sand and gravel lease in Nevada	30	30.848	1.049	31.897	30

<b>FIXED COST RECOVERY FEES</b>	<b>Existing Fee<sup>1</sup> (FY 2017)</b>	<b>Existing Value<sup>2</sup></b>	<b>IPD-GDP Increase<sup>3</sup></b>	<b>New Value<sup>4</sup></b>	<b>New Fee<sup>5</sup> (FY 2019)</b>
<b>Multiple Use; Mining (Group 3700)</b>					
Notice of protest of placer mining operations	15	12.333	0.419	12.752	15
<b>Mining Law Administration (parts 3800, 3810, 3830, 3850, 3860, 3870)</b>					
Application to open lands to location	10	12.333	0.419	12.752	15
Notice of Location	20	18.493	0.629	19.122	20
Amendment of location	10	12.333	0.419	12.752	15
Transfer of mining claim/site	10	12.333	0.419	12.752	15
Recording an annual FLPMA filing	10	12.333	0.419	12.752	15
Deferment of assessment work	110	111.015	3.775	114.79	115
Recording a notice of intent to locate mining claims on Stockraising Homestead Act lands	30	30.848	1.049	31.897	30
Mineral Patent adjudication (more than ten claims)	3,110	3,108.492	105.689	3,214.181	3,215
(ten or fewer claims)	1,555	1,554.230	52.844	1,607.074	1,605
Adverse claim	110	111.015	3.775	114.79	115
Protest	70	67.856	2.307	70.163	70
<b>Oil Shale Management (parts 3900, 3910, 3930)</b>					
Exploration License Application	325	325.360	11.062	336.422	335
Assignment or sublease of record title or overriding royalty	65	66.181	2.250	68.431	70

Source for Implicit Price Deflator for Gross Domestic Product data: U.S. Department of Commerce, Bureau of Economic Analysis (May 30, 2018).

### III. How Fees Are Adjusted

The BLM took the base values (or “existing values”) upon which it derived the FY 2017 cost recovery fees (or “existing fees”) and multiplied it by the percent change in the IDP-GDP (3.4 percent for this update) to generate the “IDP-GDP increases” (in dollars). The BLM then added the “IDP-GDP increases” to the “existing values” to generate the “new values.” The BLM then calculated the “new fees” by rounding the “new values” to the closest multiple of \$5 for fees equal to or greater than \$1, or to the

nearest cent for fees under \$1. The “new fees” are the updated cost recovery fees for FY 2019.

#### **IV. Procedural Matters**

##### Regulatory Planning and Review (Executive Order 12866)

This document is not a significant rule, and the Office of Management and Budget has not reviewed this rule under Executive Order 12866.

The BLM has determined that the rule will not have an annual effect on the economy of \$100 million or more. It will not adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. The changes in this rule are much smaller than those in the 2005 final rule, which did not approach the threshold in Executive Order 12866. For instructions on how to view a copy of the analysis prepared in conjunction with the 2005 final rule, please contact one of the persons listed in the **FOR FURTHER INFORMATION CONTACT** section above.

This rule will not create inconsistencies or otherwise interfere with an action taken or planned by another agency. This rule does not change the relationships of the onshore minerals programs with other agencies’ actions. These relationships are included in agreements and memoranda of understanding that will not change with this rule.

In addition, this final rule does not materially affect the budgetary impact of entitlements, grants, or loan programs, or the rights and obligations of their recipients. This rule applies an inflationary adjustment factor to existing user fees for processing certain actions associated with the onshore minerals programs.

Finally, this rule will not raise novel legal or policy issues. As explained above, this rule simply implements an annual process to account for inflation that was adopted by and explained in the 2005 Cost Recovery Rule.

#### Reducing Regulation and Controlling Regulatory Costs (EO 13771)

This action is not an EO 13771 regulatory action because it is not significant under EO 12866.

#### The Regulatory Flexibility Act

This final rule will not have a significant economic effect on a substantial number of small entities as defined under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). As a result, a Regulatory Flexibility Analysis is not required. The Small Business Administration defines small entities as individual, limited partnerships, or small companies considered to be at arm's length from the control of any parent companies if they meet the following size requirements as established for each North American Industry Classification System (NAICS) code:

- Iron ore mining (NAICS code 212210): 750 or fewer employees
- Gold ore mining (NAICS code 212221): 1,500 or fewer employees
- Silver ore mining (NAICS code 212222): 250 or fewer employees
- Uranium-Radium-Vanadium ore mining (NAICS code 212291): 250 or fewer employees
- All Other Metal ore mining (NAICS code 212299): 750 or fewer employees
- Bituminous Coal and Lignite Surface Mining (NAICS code 212111): 1,250 or fewer employees



- Bituminous Coal Underground Mining (NAICS code 212112): 1,500 or fewer employees
- Crude Petroleum Extraction (NAICS code 211120): 1,250 or fewer employees
- Natural Gas Extraction (NAICS code 211130): 1,250 or fewer employees
- All Other Non-Metallic Mineral Mining (NAICS code 212399): 500 or fewer employees

The SBA would consider many, if not most, of the operators with whom the BLM works in the onshore minerals programs to be small entities. The BLM notes that this final rule does not affect service industries, for which the SBA has a different definition of “small entity.”

The final rule may affect a large number of small entities because 31 fees for activities on public lands will be increased. The adjustments result in no increase in the fees for processing 17 actions relating to the BLM’s minerals programs. The highest adjustment, in dollar terms, is for adjudications of mineral patent applications involving more than 10 mining claims; that fee will increase by \$105. Accordingly, the BLM has concluded that the economic effect of the rule’s changes will not be significant, even for small entities.

For the 2005 Cost Recovery Rule, the BLM completed a Regulatory Flexibility Act threshold analysis, which is available for public review in the administrative record for that rule. For instructions on how to view a copy of that analysis, please contact one of the persons listed in the **FOR FURTHER INFORMATION CONTACT** section above. The analysis for the 2005 rule concluded that the fees would not have a significant economic effect on a substantial number of small entities. The fee increases

implemented in this rule are substantially smaller than those provided for in the 2005 rule.

#### The Small Business Regulatory Enforcement Fairness Act

This final rule is not a “major rule” as defined at 5 U.S.C. 804(2). The final rule will not have an annual effect on the economy greater than \$100 million; it will not result in major cost or price increases for consumers, industries, government agencies, or regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. Accordingly, a Small Entity Compliance Guide is not required.

#### Executive Order 13132, Federalism

This final rule will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. In accordance with Executive Order 13132, the BLM therefore finds that the final rule does not have federalism implications, and a federalism assessment is not required.

#### The Paperwork Reduction Act of 1995

This rule does not contain information collection requirements that require a control number from the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3521). After the effective date of this rule, the new fees may affect the non-hour burdens associated with the following control numbers:

Oil and Gas

- (1) 1004-0034 which expires June 30, 2021;
- (2) 1004-0137 which expires September 30, 2018;<sup>8</sup>
- (3) 1004-0162 which expires October 31, 2018;<sup>9</sup>
- (4) 1004-0185 which expires March 31, 2019;

#### Geothermal

- (5) 1004-0132 which expires February 29, 2020;

#### Coal

- (6) 1004-0073 which expires January 31, 2020;

#### Mining Claims

- (7) 1004-0025 which expires March 31, 2019;
- (8) 1004-0114 which expires January 31, 2020; and

#### Leasing of Solid Minerals Other Than Oil Shale

- (9) 1004-0121 which expires August 31, 2019.

#### Takings Implication Assessment (Executive Order 12630)

As required by Executive Order 12630, the BLM has determined that this rule will not cause a taking of private property. No private property rights will be affected by a rule that merely updates fees. The BLM therefore certifies that this final rule does not represent a governmental action capable of interference with constitutionally protected property rights.

#### Civil Justice Reform (Executive Order 12988)

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<sup>8</sup>A request for renewal is pending with the Office of Management and Budget.

<sup>9</sup>A request for renewal is pending with the Office of Management and Budget.

In accordance with Executive Order 12988, the BLM finds that this final rule will not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Executive Order.

#### The National Environmental Policy Act (NEPA)

The BLM has determined that this final rule qualifies as a routine financial transaction and a regulation of an administrative, financial, legal, or procedural nature that is categorically excluded from environmental review under NEPA pursuant to 43 CFR 46.205 and 46.210(c) and (i). The final rule does not meet any of the 12 criteria for exceptions to categorical exclusions listed at 43 CFR 46.215. Therefore, neither an environmental assessment nor an environmental impact statement is required in connection with the rule (40 CFR 1508.4).

#### The Unfunded Mandates Reform Act of 1995

The BLM has determined that this final rule is not significant under the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1501 et seq., because it will not result in State, local, private sector, or tribal government expenditures of \$100 million or more in any one year, 2 U.S.C. 1532. This rule will not significantly or uniquely affect small governments. Therefore, the BLM is not required to prepare a statement containing the information required by the Unfunded Mandates Reform Act.

#### Consultation and Coordination with Indian Tribal Governments (Executive Order 13175)

In accordance with Executive Order 13175, the BLM has determined that this final rule does not include policies that have tribal implications. Specifically, the rule would not have substantial direct effects on one or more Indian tribes. Consequently, the

BLM did not utilize the consultation process set forth in Section 5 of the Executive Order.

Information Quality Act

In developing this rule, the BLM did not conduct or use a study, experiment, or survey requiring peer review under the Information Quality Act (Pub. L. No. 106-554).

Effects on the Nation's Energy Supply (Executive Order 13211)

In accordance with Executive Order 13211, the BLM has determined that this final rule is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It merely adjusts certain administrative cost recovery fees to account for inflation.

Author

The principal author of this rule is Mark Purdy of the Division of Regulatory Affairs, Bureau of Land Management.

List of Subjects in 43 CFR Part 3000

Public lands--mineral resources, Reporting and recordkeeping requirements.

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Joseph R. Balash,

Assistant Secretary for Land and Minerals Management.

For reasons stated in the preamble, the Bureau of Land Management amends 43 CFR part 3000 as follows:

**PART 3000 – MINERALS MANAGEMENT: GENERAL**

1. The authority citation for part 3000 continues to read as follows:

Authority: 16 U.S.C. 3101 et seq.; 30 U.S.C. 181 et seq., 301–306, 351–359, and 601 et seq.; 31 U.S.C. 9701; 40 U.S.C. 471 et seq.; 42 U.S.C. 6508; 43 U.S.C. 1701 et seq.; and Pub. L. 97–35, 95 Stat. 357.

**Subpart 3000 – General**

2. Amend § 3000.12 by revising paragraph (a) to read as follows:

**§ 3000.12 What is the fee schedule for fixed fees?**

(a) The table in this section shows the fixed fees that must be paid to the BLM for the services listed for Fiscal Year (FY) 2019. These fees are nonrefundable and must be included with documents filed under this chapter. Fees will be adjusted annually according to the change in the Implicit Price Deflator for Gross Domestic Product (IPD-GDP) by way of publication of a final rule in the Federal Register and will subsequently be posted on the BLM Web site (<http://www.blm.gov>) before October 1 each year. Revised fees are effective each year on October 1.

**Table 1 to paragraph (a) --**

**FY 2019 PROCESSING AND FILING FEE TABLE**

<b>Document/Action</b>	<b>FY 2019 Fee</b>
<b>Oil &amp; Gas (parts 3100, 3110, 3120, 3130, 3150)</b>	
Noncompetitive lease application	\$425
Competitive lease application	\$165

<b>Document/Action</b>	<b>FY 2019 Fee</b>
Assignment and transfer of record title or operating rights	\$95
Overriding royalty transfer, payment out of production	\$15
Name change, corporate merger or transfer to heir/devisee	\$225
Lease consolidation	\$470
Lease renewal or exchange	\$425
Lease reinstatement, Class I	\$85
Leasing under right-of-way	\$425
Geophysical exploration permit application – Alaska	\$25
Renewal of exploration permit – Alaska	\$25
<b>Geothermal (part 3200)</b>	
Noncompetitive lease application	\$425
Competitive lease application	\$165
Assignment and transfer of record title or operating rights	\$95
Name change, corporate merger or transfer to heir/devisee	\$225
Lease consolidation	\$470
Lease reinstatement	\$85
Nomination of lands	\$120
plus per acre nomination fee	\$0.12
Site license application	\$65
Assignment or transfer of site license	\$65
<b>Coal (parts 3400, 3470)</b>	
License to mine application	\$15
Exploration license application	\$350
Lease or lease interest transfer	\$70
<b>Leasing of Solid Minerals Other Than Coal and Oil Shale (parts 3500, 3580)</b>	
Applications other than those listed below	\$40
Prospecting permit application amendment	\$70
Extension of prospecting permit	\$115
Lease modification or fringe acreage lease	\$30
Lease renewal	\$550
Assignment, sublease, or transfer of operating rights	\$30
Transfer of overriding royalty	\$30

<b>Document/Action</b>	<b>FY 2019 Fee</b>
Use permit	\$30
Shasta and Trinity hardrock mineral lease	\$30
Renewal of existing sand and gravel lease in Nevada	\$30
<b>Public Law 359; Mining in Powersite Withdrawals: General (part 3730)</b>	
Notice of protest of placer mining operations	\$15
<b>Mining Law Administration (parts 3800, 3810, 3830, 3850, 3860, 3870)</b>	
Application to open lands to location	\$15
Notice of location*	\$20
Amendment of location	\$15
Transfer of mining claim/site	\$15
Recording an annual FLPMA filing	\$15
Deferment of assessment work	\$115
Recording a notice of intent to locate mining claims on Stockraising Homestead Act lands	\$30
Mineral patent adjudication	\$3,215 (more than 10 claims)  \$1,605 (10 or fewer claims)
Adverse claim	\$115
Protest	\$70
<b>Oil Shale Management (parts 3900, 3910, 3930)</b>	
Exploration license application	\$335
Application for assignment or sublease of record title or overriding royalty	\$70

\*To record a mining claim or site location, this processing fee along with the initial maintenance fee and the one-time location fee required by statute (43 CFR part 3833) must be paid.

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[FR Doc. 2018-21298 Filed: 9/27/2018 8:45 am; Publication Date: 9/28/2018]